

KEVIN SMITH,

VS.

Defendants.

The complaint names two Defendants: 1) Superintendent Jim Wynn; and 2) Commissioner of the Indiana Department of Correction Bruce Lemmon. The complaint alleges that on or about April 18, 2013, while incarcerated at the Reception Diagnostic Center, Smith was given a haircut and as a result he contracted folliculitis disease on his scalp. Smith alleges that the barber shop had no sanitation chemicals to clean hair clippers, and he now has permanent scalp sores and scars. He alleges the Defendants knew of unsanitary prison conditions dealing with hair clippers but failed to do anything about it. He alleges that Defendants' owed him a duty to sanitize the hair clippers and that Defendants violated his rights under the Eighth Amendment to the United States Constitution and were negligent. Smith seeks injunctive relief and compensation for bringing this action. Because Smith seeks injunctive relief, the Court construes his claims as having been brought against Defendants in their official and individual capacities.

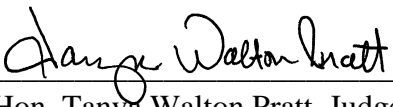
The complaint has been screened pursuant to 28 U.S.C. ' 1915A(b). This statute directs that the Court dismiss a complaint or any claim within a complaint that “(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” *Id.* “A complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show the plaintiff is not entitled to relief.” *Jones v. Bock*, 549 U.S. 199, 215 (2007). Having accepted the plaintiff’s allegations as true, the claims against both defendants shall proceed.

II.

The defendants shall have **through October 14, 2014**, in which to file their answer or other responsive pleading.

IT IS SO ORDERED.

Date: 9/22/2014


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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